Supreme Court, U.S.
FILED
FEB 5 2001
OFFICE OF THE CLERK

(2)

Docket NO: 00-1211

In The
SUPREME COURT OF THE UNITED STATES
October Term 1999

CHRISTOPHER R. WOJCIECHOWSKI
Petitioner,

V.

WALT DISNEY CONCERT HALL NO. 1 et. al. of which only: Latham & Watkins, John P. (Jack) Walker, Jr.; William J. Meeske and Vincent Herron, are Respondents,

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On Petition for Writ of Certiorari
To The U.S. COURT of APPEALS for THE NINTH CIRCUIT
Docket No. 99-15702
[Related Cases Docket No. 00 -70779 & 99 15135]

SUPPLEMENT TO PETITION FOR WRIT OF CERTIORARI

CHRISTOPHER R. WOJCIECHOWSKI,
PETITIONER
Pro Se, Appearing as a Private Attorney General of Record
Customs Road, Pebble Beach CA
Mailing Address: P.O. Box 1171
Pebble Beach CA 93953 - Tel. No. 831 372 5590

RESPONDENTS:
LATHAM & WATKINS; JOHN P. (JACK) WALKER, JR.
WILLIAM J. MEESKE; VINCENT HERRON
633 W. Fifth Street, Suite 4000
Los Angeles, CA 90071
Tel No. (213) 485 1234

40cp

QUESTION PRESENTED

Should the Court consider related matters shown in the Petition, thereby effect their consolidation here, as the three intervening matters, in this Supplement, which were not available on SEP 25, 2000, when this Petition was made ?

LIST OF PARTIES TO THE PROCEEDINGS

DEFENDANTS: There are 32 additional Defendants, affected by this Supplement, in addition to the four named in the Petition, all are asserted to be RICO/Civil Rights violators, in the same DC Case No. CV 98-21139 RMW, they are:

Walt Disney Concert Hall No. 1; Walt Disney Concert Hall No. 2; Trustees of the Lillian B. Disney Trust; Shelly B. Thompson, Co-Trustee; U.S. Trust Co. N.A. [1/], Co-Trustee; Robert L. Wilson, Co-Trustee; Executors of the Will of Lillian B. Disney; Robert L. Wilson Co-Executor; U.S. Trust Co. Co-Executor; Diane Disney Miller in her individual capacity; Executors of the Estate of Sharon D. Lund; U.S. Trust Co. Co-Executor; Diane Disney Miller, Co-Executor; Ronald E. Gother, Co-Executor; The County of Los Angeles; Harry Hufford; John P. Shook; Ronald E. Gother, in his individual capacity; Gibson Dunn & Crutcher; Jane Lindsay Wingfield; Bennett L. Silverman; Charles S. Battles, Jr.; Laurel Ballard; William Lasarow; Peter L. Shaw; Canyon Oaks Estates L.P.; Topanga Oaks Inc.; Robert L. Wilson, in his individual capacity; Harry J. Kim; Finer Kim & Stearns Alan D. Harris; Harris & Ruble; U.S. Trust Co. N.A.; John C. Westwater; Edmund D. Edelman; Larry J. Monteihl & Retlaw Enterprises Inc.

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[1] /The Charles Schwab Corp, by way of it's recent acquisition of U.S. Trust Co. N.A. has assumed legal and financial responsibility for U.S. Trust Co., in it's various capacities, shown above.

Arthur B. Cook, Esq.
Hill, Farrer & Burrill Tel. (213) 620 0460
300 S. Grand Ave. 37th. Fl.
Los Angeles, CA 90071

Represents:

Coconspirators: Walt Disney Concert Hall No. 1; Walt Disney Concert Hall No. 2; Diane Disney Miller in her individual capacity; Executors of the Estate of Sharon D. Lund; U.S. Trust Co., Co-Executor; Diane Disney Miller, Co-Executor; Ronald E. Gother, Co-Executor; Ronald E. Gother, in his individual capacity; Gibson Dunn & Crutcher; Jane Lindsay Wingfield; Bennett L. Silverman; Charles S. Battles, Jr.; Laurel Ballard; Canyon Oaks Estates L.P.; Topanga Oaks Inc.; Robert L. Wilson, in his individual capacity; U.S. Trust Co. N.A.; John C. Westwater; Retlaw Enterprises Inc.

Robert S. Muller, III, U.S. Attorney
280 S. First Street, Tel. (408) 535 5061
Rm. 371
San Jose, CA 95113

Represents:

Coconspirators: Peter L. Shaw; William J. Lasarow Ronald M. Whyte

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Lloyd W. Pellman, County Counsel
648 Kenneth Hahn Hall of Administration
500 West Temple St. Tel. (213) 874 1904
Los Angeles, CA 90012-2713

Represents:

Coconspirators: Los Angeles County; Edmund D. Edelman; Michael D. Antonovich; John P. Shook; Larry Monteilh; Harry Hufford

Robert B. Parsons, Finer Kim & Stearns
3424 Carson Street, Ste. 500 Tel. (310) 214 1477
Torrance, CA 90503

Represents:

Coconspirators:: Harry J. Kim; Finer Kim & Stearns

Lisa Mc Kenzie
Harris & Ruble Tel. (323) 822 1858
1625 Woods Drive
Los Angeles, CA 90069

Represents:

Coconspirators:: Alan Harris aka Dale A. Harris, Harris & Ruble

---

Alan Rader Tel. (310) 553 6700
O'Melveny & Myers LLP
1999 Ave of the Stars, 7th. Fl.
Los Angeles, CA 90067

Represents:

Coconspirators:: Trustees of the Lillian B. Disney Trust;Shelly B. Thompson, Co-Trustee; U.S. Trust Co. N.A., Co-Trustee; Robert L. Wilson, Co-Trustee; Executors of the Will of Lillian B. Disney; Robert L. Wilson, Co-Executor; U.S. Trust Co., Co-Executor

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Table of Authorities:

All Authorities cited in Petition are adopted herein, as if they were an intrinsic part of this Supplement

Supreme Court Rule 15.8 1
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Winet v. Price, 6 Cal Rptr. 2d 554, 560-61 (Cal.CT. App 1992) 1
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Bush v. Gore ..... vii, 6
Fiske v. Kansas, 247 U.S. 380, 385 - (1927) vii
Brooklyn Savings and Loan v. O'Neil, 324 U.S. 697, 703 (1945) vii
United States v. Haley 358 U.S. 644 (1959) 5

Citations of Opinions Below & Other Pertinent Excerpts:

No. 2 Matter:

JAN 19, 2001 - Final Order of 9th. Cir. in same DC Case No. CV 98-21129 RMW, 9th. Cir. Docket No. 00-15135, denial of: "Petition for Reconsideration, filed DEC 21, 2000" of lower court's deprivation of Petitioner's Civil Rights to due process & guaranteed Constitutional rights to a jury trial, as construed by panel, closing appeal, indicating no further filings shall be accepted. Before Trott, Graber and Mc Keown. (See page 7)

DEC 14, 2000 - Memorandum in 9th Cir. Docket No. 00-15135, dismissing in part the above Appeal , and affirming in part Judge Whyte's decision in the same DC Case No. CV 98 21129 RMW, which is the subject of the Petition for Writ of Certiorari in this Court's Docket No. 00-1211, Before Trott, Graber and Mc Keown. (See pages 8-10)

NOV 12 1999 - Order Denying Expedited Motion, in same DC Case CV 98 -21139. (See page 12)

OCT 27, 1999 - Order Denying Motions of Christopher R. Wojciechowski, in same DC Case CV 98 -21139. (See pages 13-15)

SEP 13, 1999 - Order Denying Motion Disqualify and Re Submission of Motions, in same DC Case CV 98 - 21139. (See pages 13-14)

AUG 19, 1999 - Order (1) Granting Certain Defendants' Motions to Dismiss; (2) Re Certain Defendants' Motions for Summary Judgment; (3) Re Plaintiff's For Default Judgment as a Sanction and (4) Re counter -Motion of Defendants Harry J. Kim and Finer Kim & Stearns for Sanctions, in same DC Case CV 98 -21139. (See pages 18-32)

No. 3 Matter: (See Page 11)

NOV 8, 2000 - Final Order of 9th. Cir. in Related Case Docket No. 00-70779, DC Case No. 99-21236. RMW, denial of Petition for Extraordinary Writ of Mandamus, to be issued to Respondent, U.S. DC, ND of CA, Ronald M. Whyte, a named Defendant.

Supplementary Jurisdictional Statement:

There is an *intolerable* conflict between the 9th. Circ. decision in the subject case and the Court's recent decision in Bush v. Gore. Petitioner presumes that federal grounds of equal protection of federal law and guarantees of the Constitution. prevail over state grounds. In this Case, that is applicable to No. 1 Matter presented in this Supplement.

The federal questions of Civil Rights abuses & RICO violations are sufficient to sustain this Court's Jurisdiction, in all three matters in this Supplement.

The Court can go behind state court findings in this Case to be consistent with Fiske v. Kansas, 247 U.S. 380, 385 - (1927).

Supplementary Statement of Case:

Petitioner has been deprived of equal protection by Coconspirator's, including L.A. County's state court's acts, of his absolute right to overturn L&W's and other Coconspirator's, asserted Bankruptcy Fraud, which Petitioner did not know existed at the time he entered into the subject agreements with Coconspirators.

It is clear that, Coconspirators, aided and abetted by L.A. County's state courts, covered-up the true facts and deprived Petitioner of his federal rights to recover what L&W, and the other Coconspirators shown in this Supplement, unlawfully took from him, without just and equitable compensation, see Brooklyn Savings and Loan v. O'Neil 324 U.S. 697, 703 (1945).

The diffrence between the amount he was paid and the amount he was deprived of is $156 million, or 99% of what was his net worth.

Supplemental Brief to Petition for Writ of Certiorari Docket No. 00- 1211 made pursuant to Rule 15.8, intervening three matters not available at the time of party's last filing:

No. 1 Matter:

The Ninth Circuit AFFIRMED SUMMARY JUDGMENT, based on two basic incomplete reasons:

1. *"Because Wojciechowski signed a general release of claims discharging Latham from any claims related to prior litigation, and because Wojciechowski provided no evidence to show that the release was invalid, see Winet v. Price, 6 Cal Rptr. 2d 554, 560-61 (Cal.CT. App 1992), the district court properly granted summary judgment for Latham."*

That incomplete conclusion is erroneous, and incorrect, by reason of the fact that, Petitioner has been waiting to be paid for that general release, *since his last filing,* no consideration has been paid by L&W to Petitioner, to the date of this Supplemental Argument. No consideration has ever been paid for that, *"general release of claims discharging Latham from any claims related to prior litigation,".* The only correct conclusion is that, the facts and the law show no money was ever paid Petitioner by L&W, and no money will ever be paid, therefore, that release is invalid, as a result Petitioner is not precluded from suing L&W. The Supreme Court must overturn the erroneous May 3, 2000 Memorandum of Affirmance of Ninth Circuit and remand the case, as requested, for a jury trial.

2. *"The district court denied Wojciechowski's motion for default judgment because Latham appeared in the action. See Direct Mail Specialists, Inc. v. Eclat Computerized Techs., Inc., 840 F.2d*

685.689 (9th Cir 1988)."

That incomplete conclusion is also erroneous, and it is also incorrect. Obviously, Petitioner does not deny that L&W appeared in the case.

The issue is the undisputed fact that L&W was in Default because it appeared late, beyond the 20 day limitation on the summons. That is a Default. Under FRCP Rule 55, the Clerk was requested to enter a Default Judgment immediately. The Clerk refused, only because it was requested by Petitioner, who is a Pro Se litigant. The Clerk discriminated against Petitioner, denying Petitioners Civil Rights to due process. However, that fact did not constitute a waiver of Default. Neither did that fact cure the Default, nor did that fact set aside the Default.

Petitioner made, filed and served Motions for Default the day after L&W appeared, see Docket Entry No. 27-42 in Appendix to Petition on pg. 38-41. The docket shows Sixteen (16) entries seeking Default that day. The biased Judge Whyte declined to Default those Defendants the day after they were in Default. It is clear and convincing evidence, supported in Judge Whyte's very own Docket that the prejudiced Judge failed to abide by Rule 55(b)(2). There are no Petitions in the Docket seeking to set aside the Defaulted parties, under Rule 55(c).

There is no Order in the Docket pursuant to Rule 55 (c) setting aside the Default's of all of those parties. Therefore, all of the parties, including the four Defendants here, who were included in Default, remain in Default. The Summary Judgment Dismissal, which is the subject of this Appeal, is void. L&W and it's attorneys were then, and are now, still in Default. All of their papers since, are void. Declining Default, as the trial judge did, is not setting aside Defaults. Therefore, pursuant to Rule 55(d) Petitioner is entitled to Judgment by Default.

L&W, therefore, had no right to file any papers whatsoever since, including their Summary Judgment Motion or their Answering Brief at the Ninth Circuit. L&W, it's attorneys and all of the other Defendant's shown in this Supplement and in No. 2 Matter below, who were in Default, have not sought to set aside their Default, either. Therefore, all of them are still in Default, to this day, and all their papers filed in this case since then, are void and have no effect.

No. 2 Matter:

On JAN 19, 2001, the other part of this dismissed case, the bifurcated part, the same DC Case No. CV 98-21139 RMW, and on Appeal at the 9th Cir. as Docket No. 99 151315 was finally affirmed/dismissed See pg. 7-32 Appendix this Supplm't for final appealable Order & prior orders).

Petitioner believes that, that act was done in retaliation, with premeditated malice, to cause additional injury to Petitioner, by reason of the fact that, Order was made on the very same day, JAN 19, 2001 as the summons and First Amended Complaint was served on Coconspirators/ Defendants: Peter L. Shaw and M. Margaret Mc Keown. Both of them, are named in Case No. 00-20962, with Antonin Scalia, and the Republican National Committee, and 39 other Defendants, all in their individual capacities. RNC, Antonin Scalia, the Solicitor General, and the United States Attorney General, were served at the same time.

The above act, by Coconspirators Shaw & Mc Keown is but, another act in a *pattern of racketeering activity* within the meaning of RICO, 18 USC Sect. 1961(5) in violation of RICO, 18 USC Sect. 1962(a)(b)(c)(d).

Petitioner requests that the Court consider these other parts of the dismissed Case to be heard and adopted as an intrinsic part of this Petition for Writ of Certiorari, by reason of the following facts:

A. Judicial economy in this Court shall be served. The issues are the same.

B. The flawed Summary Judgment, on appeal here, cannot stand alone, it is part of the RICO Conspiracy.

C. Respondents here: Latham & Watkins; John P. (Jack) Walker; William J. Meeske; Vincent Herron, are named Coconspirators with the other parties.

D. The demanded jury cannot bifurcate wrongdoing nor can civil damages be severed.

E. Remand, for a jury trial, if granted by this Court, must be one Civil Action under FRCP Rule 2.

F. As is shown in this Petition Docket No. 00-1211, in the Appendix pg. 39-44, Defendant's/ Coconspirators; Walt Disney Concert Hall No. 1, Walt Disney Concert Hall No. 2, William Lasarow, John P. Shook, Harry Hufford, Los Angeles County Alan D. Harris; Harris & Ruble etc., were and still are all in Default, same as L&W, Walker, Meeske and Herron.

G. The Dismissal issues placed before the Court are procedural and minor in nature see pg. 18-32, in Appendix here. Such frivolous reasons for Dismissal, by a Judge who has been accused of criminal acts, cannot be allowed to stand in the way of Petitioner's Civil Rights to due process and to the guarantees of the Constitution. Recovery of *significant property* totaling $156 million, which was unlawfully taken from him, must take precedent. Coconspirators, in what is a stereotype "Mafia" like take over of Petitioners business, violated Title 42 USC Sec'st. 1983,1985,1986 combined with Title 18 USC Sect's. 1503; 1510; 1511; 1512; 1513; 1951; 1952. Their violations are Described in the Petition before this Court and in Case 00-20962.

H. The relief sought, in money damages suffered by Petitioner, is the responsibility of all Coconspirators. These issues call for Summary Reversal on merits of Petition and this Supplement,

by reason of the fact that, decision below was so insubstantial as to not warrant plenary review. It is only appropriate that this Court reverse the District Court dismissal, which refused to uphold Petitioner's Constitutional rights, see United States v. Haley 358 U.S. 644 (1959).

I. As such, the trial must include all named Coconspirators/ Defendants in DC Case No. CV 99-21236 and it must be Consolidated with DC Case pending as DC Case No. 00-20962. In the rightful presiding Judge's Court. Which is the Court of the Hon. Jeremy Fogel, as is requested in the Petition and shown below in the following matter of this Supplement.

No. 3 Matter:

On NOV 8, 2000 yet, another part of this dismissed case, the third part, in the same DC Case No. CV 98-21139 RMW, on Appeal at the 9th Cir. as Docket Docket No. 00-70779, was denied (See pg. 11 Appendix to this Supplement for final appealable Order). Also see pg. 2 para. 3, pg. 22, para 3-4 in Petition and pg's. 44-54 in Appendix to the subject Petition for Writ of Certiorari .

Case 00-70779 is related, as is shown in this Petition for Writ of Certiorari, and the intervening filed and served, DC Case No. 00-20962.

Argument, Reasons for Consolidating in Docket No. 00-1211 the three Matters presented here:

Petitioner believes that, there is no question, No. 1 & No. 2 Matters ought to be consolidated into the Petition, which is before the Court.

Petitioner has been waiting for the Court to Docket this Case 00-1211, so that 00-70779 may be included, for consideration by this court at the same time.

The 90 days to have filed a separate Petition for Writ of Certiorari, from NOV 8, 2000, run out on

the date the Court shall receive this Supplement.

Petitioner therefore, requests that the Court consider the dismissed Case 00-70779 to be an intrinsic part of this Petition for Writ of Certiorari, by reason of the same facts shown above, in the No. 2 Matter.

Being Pro Se, Petitioner has no intention to get away with anything including paying, additional fees which the Court may impose. This Supplement may appear to be complex enough to justify Petitioner paying another $300.00 filing fee. Petitioner is willing to do that, if required.

Certainly Petitioner does not want to be "out of time" to file another Petition for Writ of Certiorari, in Related Case No. 00-70779. However, if the Court deems that to be procedurally necessary, Petitioner requests 45 days additional time to file a separate Petition for Writ Certiorari.

Petitioner trusts that this Court, for judicial economy, shall consolidate these three matters under one Petition in this Docket No. 00-1211. Petitioner believes that upon review, without the need of briefing, this Court will remand all of the matters presented forthwith for a jury trial, in Judge Fogel's Court below. After all, there has been unbearably long Obstructions of Justice caused here.

SUPPLEMENTAL CONCLUSION

The Supreme Court, in the interest of judicial economy, ought to grant Petitioner, the relief requested; (a). vacate all erroneous affirmance in all Orders shown in the appendices; (b). consolidate the three matters in this Supplement and remand, the case to the impartial trial court of the Hon. Jeremy Fogel, for the long delayed jury trial. Petitioner seeks, a fair and equitable result from his peers sitting in judgment of the facts, in a jury box, as it has been guaranteed here, to all who seek equal protection from this Court (Bush v. Gore), and as is guaranteed

by the Constitution of the United States.

Dated: FEB 1, 2001



Christopher R. Wojciechowski, Petitioner

APPENDIX TO SUPPLEMENT TO PETITION FOR WRIT OF CERTIORARI DOCKET NO. 00-1211

JAN 19, 2001 ORDER

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED
JAN 19 2001
CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

CHRISTOPHER R. WOJCIECHOWSKI Plaintiff-Appellant, v. WALT DISNEY CONCERT HALL NO. 1; et al., Defendants-Appellees	No. 00-15135 DC#CV-98-21139-RMW Northern California (San Jose) ORDER

Before: TROTT, GRABER, and McKEOWN, Circuit Judges.

Appellant's "Petition for Reconsideration" is construed as a petition for panel rehearing. So construed, the petition for panel hearing is denied.

No further filings shall be accepted in this closed appeal.

DEC 14, 2000 ORDER

FILED
DEC 14 2000
CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CHRISTOPHER R. WOJCIECHOWSKI, PLAINTIFF-APPELLANT, v. WALT DISNEY CONCERT HALL NO. 1; WALT DISNEY CONCERT HALL NO. 2; TRUSTEES OF THE LILLIAN B. DISNEY TRUST; SHELLY B. THOMPSON, Co-Trustee; U.S. TRUST COMPANY, NATIONAL ASSOCIATION, Co-Trustee and Co-Executor; ROBERT L. WILSON, Co-Trustee, Co-Executor and in his individual capacity; EXECUTORS OF THE WILL OF LILLIAN B. DISNEY; EXECUTORS OF THE ESTATE OF SHARON D. LUND; DIANE DISNEY MILLER, Co-Executor and in her individual capacity; RONALD E. GOTHER, Co-Executor and in his individual capacity; THE COUNTY OF LOS ANGELES; HARRY HUFFORD; JOHN P. SHOOK; GIBSON DUNN & CRUTCHER; JANE LINDSAY WINGFIELD; BENNETT L. SILVERMAN; CHARLES S. BATTLES, JR.; LAUREL BALLARD; CANYON OAKS	NO. 00-15135 D.C. No. CV-98-21139-RMW MEMORANDUM 1/

ESTATES L.P.; TOPANGA OAKS INC.; HARRY J. KIM; FINER KIM & STEARNS; ALAN D. HARRIS; HARRIS & RUBLE; JOHN C. WESTWATER; RETLAW ENTERPRISES INC., EDMUND D. EDELMAN; LARRY J. MONTEILH,

Defendants-Appellees.

1/ This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as may be provided by 9th Cir. R. 36-3.

Appeal from the United States District Court
for the Northern District of California
Ronald M. Whyte, District Judge, Presiding
Submitted December 4, 2000 2/

Before: TROTT, GRABER, and McKEOWN, Circuit Judges.

Christopher R. Wojciechowski appeals pro se the district court's judgment dismissing his action alleging that defendants violated his civil rights and various federal statutes by conspiring to defraud him. We dismiss in part and affirm in part.

This court has an independent duty to review whether jurisdiction exists, even where a motions panel previously has denied a motion to dismiss for lack of

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2/ The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2). Accordingly, we deny Wojciechowski's request for oral argument.

jurisdiction. *See United States v. Houser*, 804 F.2d 565, 568 (9th Cir. 1986). Because the first amended complaint did not name any federal defendants, Wojciechowski had 30 days in which to file his notice of appeal. *See* Fed. R. App. P. 4(a)(1). Accordingly, Wojciechowski's December 9, 1999 notice of appeal was timely as to the district court's order entered on November 19, 1999, but not as to the underlying judgment entered on August 31, 1999 or the district court's order entered on November 2, 1999. *Cf. Wages v. IRS*, 915 F.2d 1230, 1234 & n.3 (9th Cir. 1990) (holding that a successive Fed. R. Civ. P. 59 motion does not toll the time to appeal unless the district court substantively alters its judgment in response to a timely Fed. R. Civ. P. 59 motion). Therefore, we dismiss Wojciechowski's appeal from the underlying judgment and the order entered on November 2, 1999.

With respect to the district court's order entered on November 19, 1999, we conclude that the district court did not err by denying Wojciechowski's motion for reconsideration. *See School Dist. No. 1J, Multnomah County v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993). Therefore, we affirm the district court's order denying Wojciechowski's motion for reconsideration.

We grant appellees' request for judicial notice.

We deny Wojciechowski's request to substitute parties.

DISMISSED in part and AFFIRMED in part.

NOV 8 2000 ORDER

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED
NOV 8 2000
CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

In re: CHRISTOPHER R. WOJCIECHOWSKI, CHRISTOPHER R. WOJCIECHOWSKI, Petitioner, v. UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA (SAN JOSE), Respondent, MONTEVIDEO COUNTRY CLUB, Real Party in Interest.	No. 00-70779 DC# CV-99-21236-RMW Northern Calif. (San Jose) ORDER

Before: WALLACE, SCHROEDER and THOMAS, Circuit Judges.

The petition for rehearing en banc is denied on behalf of the court. *See* General Order Seet. 6.11.

No motions for reconsideration, rehearing, clarification, stay of the mandate, or any other submissions shall be filed or entertained in this closed docket.

NOV 12 1999 ORDER

FILED
NOV 12 1999
Richard W. Wieking
CLERK, U.S. DISTRICT COURT
Northern District of California
San Jose

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CHRISTOPHER R. WOJCIECHOWSKI,
Plaintiff,

v.

WALT DISNEY CONCERT HALL NO. 1 et al.,
Defendants.

No. C98-21139 RMW
ORDER DENYING EXPEDITED MOTION

On November 3, 1999, Christopher R. Wojciechowski filed a "Motion for Leave to File: Under Civil L.R. 7-9(b)(3)(d) For Reconsideration of Order of Oct. 27, 1999; dismissing All Defendants; From This Case; Affidavit Under USC Sect. 144, of Bias and Prejudice Against Presiding Judge, Hon. Ronald M. Whyte." The court will construe this as two separate motions: (1) a motion for leave to file a motion to reconsider the court's order denying Wojciechowski's earlier motion to vacate the dismissal of his claim with prejudice; and (2) a motion to disqualify this court from hearing further proceedings in this matter. Both motions raise arguments that the court has considered and rejected in past rulings. The court therefore denies the motions.

DATED: 11/8/99 "s/_____"
RONALD M. WHYTE
United States District Judge

OCT 27, 1999 ORDER

FILED
OCT 27 1999
Richard W. Wieking
CLERK, U.S. DISTRICT COURT
Northern District of California
San Jose

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CHRISTOPHER R. WOJCIECHOWSKI, Plaintiff, v. WALT DISNEY CONCERT HALL NO. 1 et al., Defendants.	No. C98-21139 RMW ORDER DENYING MOTIONS OF CHRISTOPHER R. WOJCIECHOWSKI **[Re: Docket Nos. 241, 242, 264]**

On September 3, 1999, Christopher R. Wojciechowski filed two sets of papers with the court: (1) a "Motion Pursuant To: FRAP 4(a)(4)(iv); FRCP. Rule 59(a)(b)(c)(e) & 52(b) for additional findings of fact; To Alter or Amend Order Dismissing RICO Action Against all Defendants" and accompanying papers; and (2) a "Motion Pursuant To: FRAP 4(a)(4)(iv); FRCP. Rule 60(b)(3) for Relief from Fraud on Court by Attorneys & Judge to Vacate Judgment Which Dismissed RICO Case Against Defendants" also with accompanying papers. By its order filed September 13, 1999, the court partially denied these motions to the extent that they sought disqualification of this court from hearing further matters in this case. The court also ordered that the remainder of these motions be submitted without oral argument. Wojciechowski subsequently filed an *Ex Parte* "Motion for: Miscellaneous Ex Part Request Under L.R.

7-11(d) for Enlargement of Time, Clarification and/or Further Briefing on Effect, if any, of Order of Supreme Court Case No. 98--1924 & 98-1955, on this RICO Case, Made After Plaintiffs [sic] Reply Papers Were Filed to Opposition of Defendants to Pending Motions Scheduled & Declaration of Christopher R. Wojciechowski in Support." The court has read the papers submitted by the parties. 1/

As their titles suggest, Wojciechowski's motions are prolix and opaque. Reading the first two motions together, the court will construe them as a motion to vacate a judgment pursuant to Rule 60(b) of the Federal Rules of Civil Procedures, because the relief they seek would reverse this Court's earlier order of August 19, 1999, which dismissed Wojciechowski's complaint with prejudice. 2/ See Wojciechowski's Proposed Combined Order.

Wojciechowski's motion to vacate the judgment is not well taken. The motion is a melange of frivolous legal arguments and confused conspiracy theories involving real estate transactions, the Walt Disney family, and well-known Los Angeles law firms. In short, it says little new. The one novelty is a variety of allegations that this court (in its person and its staff) now belongs to the same vast conspiracy as the defendants in this case. See e.g., Plaintiff's Reply to Opposition of: FKS and GD&C Defendants to Plaintiffs: Motion Pursuant To: FRAP 4(a)(4)(iv); FRCP. Rule 60(b)(3) 17:4-26. These unsupported allegations, obviously rooted in

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1/ The court received five different sets of opposition papers to Wojciechowski's motions. Wojciechowski's papers included declarations and separate replies to the opposition papers.

2/ Wojciechowski's pleadings were dismissed with prejudice only after he failed to comply with the court's earlier order of February 12, 1999, which had required that he plead complaint comprehensibly.

disappointment with the court's earlier rulings, do not justify vacating the judgment. The motion therefore fails to raise any of the necessary grounds for a Rule 60(b) order of vacatur.

The ex parte motion is even worse; indeed, it is virtually incoherent. The motion points to a pair of recent Supreme Court decisions, which deny petitions of certiorari that Wojciechowski had filed. 3/ (From the reported cases names, it appears that the cases are part and parcel of Wojciechowski's effort to file papers in as many courts as possible.) Wojciechowski apparently believes that the two denials of certiorari somehow affect this case, and that they entitle him to extend these proceedings. They do not. The court has never reached the merits of Wojciechowski's claims, because they are incomprehensible. The status of any other cases is therefore irrelevant.

For the foregoing reasons, the court denies all of Wojciechowski's motions.

DATED: 10/25/99

"s/_____"
RONALD M. WHYTE
United States District Judge

3/ The cases are Wojciechowski v. Montevideo Ptnshp., 1999 U.S. LEXIS 5008 (Oct. 4, 1999); Wojciechowski v. Walt Disney Concert Hall, 1999 U.S. LEXIS 5033 (Oct. 4, 1999), and were the subject of a Statement of Recent Decisions filed by the Walt Disney Concert Hall defendants.

SEP 13, 1999 ORDER

FILED
SEP 13 1999
Richard W. Wieking
CLERK, U.S. DISTRICT COURT
Northern District of California
San Jose

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CHRISTOPHER R. WOJCIECHOWSKI, Plaintiff, v. WALT DISNEY CONCERT HALL NO. 1 et al., Defendants.	No. C98-21139 RMW ORDER DENYING MOTION DISQUALIFY AND RE SUBMISSION OF MOTIONS

Plaintiff Christopher R.Wojciechowski's ("plaintiff") motion for additional findings of fact; to alter or amend order dismissing RICO action against all defendants and plaintiff's motion for relief from fraud on court by attorneys & judge to vacate judgment were filed on September 3, 1999. The court denies plaintiff's motion to disqualify the court from hearing further matters in this case, which motion is contained within plaintiff's motion for additional findings of fact; to alter or amend order dismissing RICO action against all defendants. The basis for the motion to disqualify is that plaintiff does not like the rulings made to date by the court. This on its face is insufficient to support a request for disqualification.

The remainder of plaintiff's motion for additional findings of fact; to alter or amend order dismissing RICO action against all defendants and plaintiff's motion for relief from fraud on court by attorneys & judge to vacate

judgment shall be submitted without oral argument on October 15, 1999.

DATED: 9/10/99

"s/_____"
RONALD M. WHYTE
United States District Judge

AUG 19, 1999 ORDER

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

FILED
1999 AUG 19 A 11: 18
Richard W. Wieking, Clerk
U.S. DISTRICT COURT
NO. DIST. OF CA. S.J.

CHRISTOPHER R. WOJCIECHOWSKI,	) No. C 98-21139 RMW
Plaintiff,	) ORDER
v.	) (1) GRANTING CERTAIN DEFENDANTS MOTION TO DISMISS;) (2) RE CERTAIN DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT
WALT DISNEY CONCERT HALL NO. 1, et.al.,	) (3) RE PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT AS A SANCTION AND
Defendants,	) (4) RE COUNTER-MOTION OF DEFENDANTS HARRY J. KIM AND FINER KIM & STEARNS FOR SANCTIONS
	) **[Re: Docket Nos. 144, 145, 148, 149, 153, 161, 172, 178, 182, 199, 203]**

The following motions were heard on August 6, 1999:

(1) MOTION BY COUNTY OF LOS ANGELES, JOHN P. SHOOK, EDMUND D. EDELMAN AND LARRY J. MONTEILH TO DISMISS THE FIRST AMENDED COMPLAINT

(2) MOTION BY DIANE DISNEY MILLER TO DISMISS THE FIRST AMENDED COMPLAINT WITH PREJUDICE

(3) MOTION OF DIANE DISNEY MILLER FOR SUMMARY JUDGMENT

(4) MOTION OF SHELLY B. THOMPSON (AS CO-TRUSTEE OF THE LILLIAN B. DISNEY TRUST), U.S. TRUST COMPANY, N.A. (AS CO-TRUSTEE OF THE LILLIAN B. DISNEY TRUST), ROBERT L.WILSON (AS CO-TRUSTEE OF THE LILLIAN B. DISNEY TRUST), AND U.S. TRUST COMPANY, N.A. (AS CO-EXECUTOR OF THE WILL OF LILLIAN B. DISNEY) TO DISMISS THE FIRST AMENDED COMPLAINT

(5) MOTION OF DEFENDANTS GIBSON, DUNN & CRUTCHER, RONALD E. GOTHER [INDIVIDUALLY ONLY], JANE LINDSEY WINGFIELD, BENNETT L. SILVERMAN, CHARLES S. BATTLES, JR. AND LAUREL BALLARD TO DISMISS ALL CLAIMS IN FIRST AMENDED COMPLAINT WITH PREJUDICE PURSUANT TO FED R. CIV. P. 12(B)(6) AND 9(B) AND (F)

(6) MOTION OF DEFENDANTS GIBSON, DUNN & CRUTCHER, RONALD E. GOTHER [INDIVIDUALLY ONLY], JANE LINDSEY WINGFIELD, BENNETT L. SILVERMAN, CHARLES S. BATTLES, JR. AND LAUREL BALLARD TO DISMISS THE FIRST AMENDED COMPLAINT IN ITS ENTIRETY, WITH PREJUDICE,

PURSUANT TO FED. R. CIV. P. 41(B), 8 AND 10

(7) MOTION OF DEFENDANTS GIBSON, DUNN & CRUTCHER, RONALD E. GOTHER [INDIVIDUALLY ONLY], JANE LINDSEY WINGFIELD, BENNETT L. SILVERMAN, CHARLES S. BATTLES, JR AND LAUREL BALLARD FOR SUMMARY JUDGMENT

(8) MOTION BY DEFENDANTS WALT DISNEY CONCERT HALL NO.1,WALT DISNEY CONCERT HALL NO.2, U.S.TRUST COMPANY,N.A.(AS CO-EXECUTOR OF THE ESTATE OF SHARON D. LUND), RONALD E.GOTHER (AS CO-EXECUTOR OF THE ESTATE OF SHARON D. LUND), HARRY HUFFORD, CANYON OAKS ESTATES L.P., TOPANGA OAKS, INC., ROBERT L.WILSON (AN INDIVIDUAL), U.S. TRUST COMPANY, N.A., JOHN C. WESTWATER AND RETLAW ENTERPRISES, INC. TO DISMISS THE FIRST AMENDED COMPLAINT WITH PREJUDICE

(9) MOTION FOR SUMMARY JUDGMENT BY DEFENDANTS WALT DISNEY CONCERT HALL NO. 1, U.S. TRUST COMPANY, N.A. (AS CO-EXECUTOR OF THE ESTATE OF SHARON D. LUND), RONALD E. GOTHER (AS CO-EXECUTOR OF THE ESTATE OF SHARON D. LUND), CANYON OAKS ESTATES L.P., TOPANGA OAKS, INC., ROBERT L. WILSON (AN INDIVIDUAL), U.S. TRUST COMPANY, N.A., JOHN WESTWATER, RETLAW ENTERPRISES, INC. AND HARRY HUFFORD

(10) MOTION BY DEFENDANTS HARRY J. KIM AND FINER, KIM & STEARNS TO DISMISS OR IN THE ALTERNATIVE FOR A MORE DEFINITE STATEMENT

(11) MOTION OF PLAINTIFF FOR DEFAULT JUDGMENT AS A SANCTION AGAINST BAD FAITH CONDUCT

(12) COUNTER-MOTION OF DEFENDANTS HARRY J. KIM AND FINER, KIM & STEARNS FOR SANCTIONS

The court has read the moving and responding papers and heard the argument of counsel. For the reason set forth below, the motions to dismiss are granted and plaintiff's First Amended Complaint is dismissed without leave to amend. The motions for summary judgment are moot. Plaintiff's motion for sanctions is denied. The counter-motion of Harry J. Kim and Finer, Kim & Stearns (the "FKS Defendants") for sanctions is denied.

I. BACKGROUND

Plaintiff Christopher R. Wojciechowski's ("plaintiff") original complaint in this action was filed on November 16, 1998. On February 12, 199, this court dismissed plaintiff's complaint upon various defendants' motions pursuant to Fed. R. Civ., P. 8 and 10 with leave to amend, and dismissed the complaint with prejudice as to defendants Latham & Watkins, John F. Walker, Jr., William J. Meeske and Vincent Herron. The court ordered dismissal on the grounds that plaintiff's rambling 122-page pleading was a "tangled mass of vague conclusions of corruption, fraud, theft, perjury, obstruction of justice, breach of agreement and acts which plaintiff claims caused his business ventures to fail "appearing within "a jumble of argument and wandering narrative referring to disconnected events apparently occurring over the course of a decade." February 12, 1999 Order at 3-4. The court noted that the defects of the complaint included that "[t]he seven causes of action

generically refer to the acts and conclusions strewn throughout the preceding 97 pages, listing strings of defendants, identified only by number, without drawing any connection between the cause of action, any particular defendant, and any specific, coherent facts." Id at 4. The court found that the plaintiff has failed to set forth a short and plain statement showing that he is entitled to relief under Fed. R. Civ. P. 8(a)(2), and that "[n]either the defendants nor the court should be required to pull apart, reorganize, and ultimately rewrite the complaint in order to find coherence, meaning and facts which correspond to particular claims and particular defendants." Id.

Although the court in its February 12, 199 order granted plaintiff leave to amend, it specifically ordered that:

The amended complaint shall contain a short and plain statement of plaintiff's claims showing that plaintiff is entitled to relief, and shall contain averments which are simple, concise, and direct, pursuant to Fed. R. Civ. P. Rules 8(a) and 8(e)(1). The amended complaint shall include a concise statement of the facts which identifies the defendant (by name or abbreviation, not by number) who took each act identified. The amended complaint shall make all allegations in continuously numbered paragraphs, and each paragraph shall be limited as far as is practicable to a statement of a single set of circumstances, pursuant to Fed. R. Civ. P. 10(b). The amended complaint shall state separate causes of action for each distinct set of facts pursuant to Fed. R. Civ. P. 10(b), and shall identify, in the line immediately below the title of each cause of action, which defendant or defendants the cause of action is pleaded against. The amended complaint shall plead any fraud with particularity in compliance with Fed. R. Civ. P. 9(b). The complaint shall not exceed 35 pages.

Id. at 7. The court's order further notified plaintiff that:

if the amended complaint is as rambling and vague as

the present complaint and similarly insufficient under the pleading standards of the Federal Rules of Civil Procedure, it will be dismissed with prejudice as to all defendants.

Id. Plaintiff's filed a First Amended Complaint ("FAC") on March 29, 1999.

II. ANALYSIS

Plaintiff's FAC is 36 pages long with an attached 6-page "appendix" containing further allegations and argument. The FAC is brought against 32 defendants, including several new defendants who were not named in the original complaint. The FAC contains five causes of action, all having titles indicating that they derive from the "RICO" statue, 18 U.S.C. 1961 *et seq.*[1]

Plaintiff's FAC does not set forth a short and plain statement of plaintiff's claims and does not otherwise comply with almost all remaining aspects court's February 12, 1999

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1. The FAC's causes of action are titled as follows:

(1) FIRST CAUSE OF ACTION- BRIBERY RICO VIOLATIONS TITLE 18 USC SECT. 201 OF ORGANIZED CRIME CONTROL ACT OF 1970

(2) SECOND CAUSE OF ACTION- MAIL & WIRE FRAUD RICO VIOLATIONS OF TITLE 18 USC SECT'S. 1341 & 1343 OF ORGANIZED CRIME CONTROL ACT OF 1970

(3) THIRD CAUSE OF ACTION- MONETARY TRANSACTIONS IN PROPERTY DERIVED FROM SPECIFIED UNLAWFUL ACTIVITY, TITLE 18 USC SECT. 1957, RICO VIOLATIONS OF ORGANIZED CRIME CONTROL ACT OF 1970

(4) FOURTH CAUSE OF ACTION- RACKETEERING CIVIL RICO COMBINED WITH CIVIL ACTION UNDER TITLE 42 USC SECT. 1983 FOR DEPRIVATION OF PLAINTIFF'S CONSTITUTIONAL RIGHTS GUARANTEED BY I & XIV AMENDMENTS

Plaintiff's FAC does not set forth a short and plain statement of plaintiff's claims and does not otherwise comply with almost all remaining aspects court's February 12, 1999 order. For the second time, and despite the court's detailed order providing instructions, plaintiff has, like the plaintiffs in McHenry v. Renne, 84 F.3d 1172 (9th Cir. 1996), "eschewed the traditional pleading style which prescribes a 'short and plain statement' of basic allegations followed by an outline of each legal claim based on specific allegations of fact." McHenry, 84 F.3d at 1176. (Footnote 2) Plaintiff's FAC consists of disjointed allegations which jump between seemingly unrelated events, broad conclusions which cannot be attached to particular allegations, and repeated cross-

references to earlier allegations, either in this pleading or perhaps in other actions, which the court cannot patch together into any coherent form. Adding to the complete confusion, the amended complaint repeatedly refers to acts taken by an alleged RICO "Enterprise" but never

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(5) FIFTH CAUSE OF ACTION- RACKETEERING CIVIL RICO COMBINED WITH ACTION FOR FAILURE TO DISTRIBUTE PARTNERSHIP ASSETS AT DISSOLUTION ACCORDING TO TITLE 26 USC SECT. 311(b)(1)(2)(3) & 18 USC SECT. 1503

2. Although the plaintiffs in McHenry were represented by counsel, the court notes that plaintiff is far from a newcomer to litigation. See n. 6,7 infra.

defines which of the 32 defendants are alleged to be *part* of the "Enterprise".(Footnote 3) The complaint mentions certain defendants by last name or other abbreviation, but also occasionally refers to actions allegedly taken by "defendants", apparently excluding certain defendants from the "defendants" group but never actually defining it. See e.g. FAC at 10:3-5 ("In concert, Lasarow and Edelman with Defendants caused an obstruction of justice in violation of Sect. 1503 & 1957 which are prohibited 'Racketeering Acts..."). As in his original complaint, plaintiff does not identify which causes of action pertain to which defendants,

below the title of each cause of action (as the court ordered) or in any other manner, and does not otherwise make clear connections between specific legal claims and individual defendants. Once again, neither the court nor the defendants can possibly understand which defendants are being charged under what legal theories, or to what facts the scattered legal theories, to the extent they can be identified, attach.

Further, the FAC does not limit each paragraph to a single set of circumstance, many if not most of each the separate paragraphs are composed of combinations of allegations from which the reader cannot discern one coherent event.(Footnote 4) Although the amended complaint is shorter than the original complaint, it is in violation of the court's order, essentially 42 pages long, with a 36-page portion attaching a further 6 pages of claims and argument in an "appendix".

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3. It seems that plaintiff is pleading that some defendants are not part of the Enterprise, see e.g. FAC Sect. 31 ("Enterprise...conspired with; Kim, FKS, GD&C, Battles, Wilson, Harris, H&R, Miller, COE, TOI, Retlaw, Westwater, USTC, Sharon, Sharon's Estate, Lillian, Lillian's Estate, to commit & committed mail and wire fraud...").

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4. See e.g., paragraph 82, which reads:

In the County of Monterey, State Crt. of Silver, Enterprise manipulated Kim & FKS on 7-6-96, to assert plaintiff owed money to their client when it was known he owed nothing to Chou Tochi USA Inc. Kim & FKS decided to steal Plaintiff's valuable & personal property in Monterey County, in a foreclosure sale without cause. "State Actor" Silver significantly aided FKS, Kim & Enterprise, who in concert with State of Calif., deprived Plaintiff of ownership of his property without due process. Kim in an 11 page declaration made on 6-13-96, made unqualified statements of that not known to be true, in violation of 18 USC Sect. 125. In so doing, he violated his oath of office as an attorney by preparing false documentary evidence, in violation of Sect. 135, in a court of law he also perjured himself and obstructed justice by his denial of the fact of the existence of the 2-20-91 cancellation agreement. Property was taken by County/State & Racketeering Enterprise, through a continual pattern of deprivation of Plaintiff's rights, in violation of I, VII and XIV Amendments & of Title 42 USC Sect. 1983.

Plaintiff's fraud-related claims are not pleaded with particularity as the court's order, and the Federal Rules of Civil Procedure, require. To allege a violation of the mail fraud statute, it is necessary to show that (1) the defendants formed a scheme or artifice to defraud; (2) the defendants used the United States mails or caused a use of the United States mails in furtherance of the scheme; and (3) the defendants did so with the specific intent to deceive or

defraud. Schreiber Distrib. Co. v. Serv-Well Furniture Co., 806 F.2d 1393, 1399 (9th Cir. 1986). Although certain of the FAC's paragraphs pertaining to fraud or "mail fraud" are lengthy and complicated, those qualities do not make them "particularized pleading" as required by Fed. R. Civ. P. 9(b) and the court's prior order; plaintiff simply fails to state any of the required elements of the claims with clarity and particularity. See e.g., FAC Sect. 44. (Footnote 5)

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5. FAC Sect. 44 reads:

Further evidence of this mail & wire fraud was Wilson's memo to Retlaw's file made on 9-12-91. On first page, he acknowledges the fact that the cancellation with Chuo Tochi of 2-20-91 was effective. Wilson indicates a new negotiation was in the works between Plaintiff & Kim's client. Such provision was placed in cancellation agreement. He also memorializes the fact that Retlaw is attempting to sell MP's assets to Kim's client. Copies of this memo were mailed to Sharon, Wingfield & GD&C, but not Plaintiff, who first discovered this memo on Oct. 1997, in a production of documents for Wilson's deposition held in L&W's malpractice case. The above memo is clear and convincing evidence of the following: (a) Plaintiff's Carmel Highland Property and $750,000 were stolen by Enterprise, with the significant use of mail & wire fraud from Kim & FK&S; (b) Enterprises' motive to engage in wire & mail fraud was to do whatever it takes to keep Kim & FK&S satisfied so their client would buy Plaintiff's property from Sharon, after Enterprise stole it. Giving Kim $750,000, on 7-8-92, out of Plaintiff's proceeds,

Plaintiff's amended complaint alternates seemingly unrelated events, argument and conclusions pertaining to such topics as: unspecified previous proceedings in an unidentified bankruptcy court matter; the non-approval of the unidentified "Montevideo Country Club Project";

unspecified, unidentified "entitlements"; the dissolution of a partnership; a legal retention agreement and alleged malpractice by various law firms; the conduct of various government officials including judges and County Supervisors; alleged "manipulation" of unspecified tax returns; allegations that some or all defendants "stole" a "Carmel Highlands" property," otherwise unidentified, "to be taken under false pretenses;" a defeated "$75 million sale" of unidentified property to "Bone/Village Properties;" a "cancellation agreement;" a "settlement agreement;" and the increase of plaintiff's real property taxes on unspecified property in violation of Proposition 13, to recount but a sampling of plaintiff's vague, unconnected, wandering statements. As the court, citing the Ninth Circuit, stated in its previous order, "[a] Complaint is not a puzzle...and we are loathe to allow plaintiffs to tax defendants, against whom they have leveled very serious charges, with the burden of solving puzzles in addition to the burden of formulating an answer to their Complaint." In re Glenfed, Inc. Securities Litigation, 42 F.3d 1541, 1554 (9th Cir. 1994). The proceedings of even a *pro se* plaintiff "must meet some minimum threshold in providing a defendant with notice of what it is that it allegedly did wrong." Brazil v. U.S. Dept. of the Navy, 66 F.3d 193, 199 ((th Cir. 1995), *cert. denied*, 116 S.Ct. 1317 (1996). Plaintiff's pleading fails, for the second time, to meet this minimum threshold, despite the court's express instructions.

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was in effect a "bribe" or inducement to keep Kim & his client interested in buying Plaintiff's property from Sharon.

Because some if not most of the defendants to this

action have apparently been defending against plaintiff's legal actions in various forums for many years, (Footnote 6) they may be willing to hazard guesses at what plaintiff's claims pertain to in order to argue for their dismissal. Accordingly, the various defendants' motions argue, as alternatives to arguing for dismissal under Rules 8, 10 and/or and 41(b), that the FAC must be dismissed under doctrines including *res judicata*, immunity and qualified immunity, release and collateral Estoppel, and because the allegations fail to state a RICO claim and are barred by the applicable statute of limitations. Although most if not all of the parties' arguments would appear to have merit if the court were to accept the various defendants' attempts to interpret the FAC, the court cannot take even the first step of determining what claims the defendant is pleading, under what legal theories, and against whom. (footnote 7) The court is not

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6. The motion to dismiss of Gibson, Dunn & Crutcher; Gother; Wingfield; Silverman; Battles and Ballard (the "Lund Attorneys") identifies, for instance, proceedings in at least five difference courts in which it has had to defend plaintiff's prior complaints over at least the past seven years. Motion of the Lund Attorneys to Dismiss the Amended Complaint at 10.

7. For example, relying upon the FKS Defendants' description of their history of litigation with plaintiff, which description plaintiff's opposition papers do not dispute, the court is inclined to find that plaintiff's claims against the FKS Defendants are res judicata. According to the FKS Defendants, plaintiff's claims against them apparently involve a $750,000 distribution made in 1992 pertaining, although the amended complaint nowhere makes this clear,

to plaintiff's "Carmel Highlands" property. See FAC Sect. 37-44, 77, 82. The FKS Defendants' motion strenuously argues that plaintiff's claims against them have been litigated and lost by plaintiff several

willing to labor to to inject meaning into an incomprehensible pleading through assumption, guesswork, and imagination, and it does not expect the defendants to a lawsuit to do so either, regardless of how educated their guesswork might be. The defendants are entitled to be provided with charges that are clear and understandable, so that they may answer to them and conduct discovery. See McHenry, 84 F.3d at 1176. Plaintiff has failed outrightly, for the second time and despite the court's explicit warning, to set forth coherent claims and tie them to identified defendants.

Plaintiff was notified in the court's order of February 12, 1999 that if his amended complaint did not set forth his claims clearly and concisely, his action would be dismissed as to all defendants. plaintiff's amended complaint continues to be rambling, vague, and incomprehensible, and does not fairly notify any defendant of what it is that he, she or it is alleged to have done wrong and under what legal theory. Plaintiff's complaint is therefore dismissed as to all defendants without leave to amend pursuant to Fed. R. Civ. P. 8(a), 10(b) and 41(b). The motions for summary judgment brought be defendant Diane Disney Miller; defendants the Lund Attorneys; and defendants Walt Disney Concert Hall No. 1., U.S. Trust Company, N.A. (as Co-Executor of the Estate of Sharon D. Lund), Ronald E. Gother (as Co-Executor of the Estate of Sharon D. Lund), Canyon Oaks Estates, L.P., Topanga oaks, Inc., Robert Wilson (an Individual), U.S. Trust Company, N. A., John

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times over, attaching prior pleadings and court orders See e.g., Kim Defendants' Motion to Dismiss at 13 and

characterization of his claims, and the court is therefore inclined to accept it, due to the serious defects and pure incomprehensibility of plaintiff's amended complaint, the court is unable to independently determine with any certainty whether the rambling and disjointed statements made in plaintiff's pleading correspond to the claims made in his previous actions against these, or any, defendants. Westwater, Retlaw Enterprise, Inc. and Harry Hufford (the "Gotner Defendants") are denied as moot.

Plaintiff's motion for "default judgment as a sanction for bad faith conduct" is denied. Plaintiff has shown no violation of Fed. R. Civ. P. 11(b)(2) by any defendant. The FKS Defendants' counter-motion for sanctions is denied.

III. ORDER

For the foregoing reasons, plaintiff's complaint is dismissed without leave to amend. The motions for summary judgment brought by defendant Diane Disney Miller, the Lund Attorneys and the Gother Defendants are denied as moot. plaintiff's motion for "default judgment as a sanction for bad faith conduct" is denied. The FKS Defendants' counter-motion for sanctions is denied.

DATED: 8/9/99

"s/_____"
RONALD M. WHYTE
United States District Judge